



STATE OF NEW JERSEY

In the Matter of Christopher Reece
 City of Passaic, Department of Public
 Safety

FINAL ADMINISTRATIVE ACTION
 OF THE
 CIVIL SERVICE COMMISSION

CSC DKT. NO. 2016-3477
 OAL DKT. NO. CSV 11753-16
 OAL DKT. NO. PTC 02976-16
 (Consolidated)

ISSUED: JULY 20, 2018 BW

The appeal of Christopher Reece, Police Officer, City of Passaic, Department of Public Safety, removal effective February 22, 2016, on charges, was heard by Administrative Law Judge Kelly J. Kirk, who rendered her initial decision on April 4, 2018. No exceptions were file regarding the matter before the Civil Service Commission (Commission).

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Commission, at its meeting of July 18, 2018, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Christopher Reece.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 18TH DAY OF JULY, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

CONSOLIDATED

CHRISTOPHER REECE,

Petitioner,

v.

PASSAIC COUNTY POLICE ACADEMY,

Respondent.

OAL DKT. NO. PTC 02976-16

AGENCY DKT. NO. N/A

IN THE MATTER OF

CHRISTOPHER REECE,

CITY OF PASSAIC DEPARTMENT

OF PUBLIC SAFETY.

OAL DKT. NO. CSV 11753-16

AGENCY DKT. NO. 2016-3477

Michael L. Prigoff, Esq., for petitioner/appellant Christopher Reece (Lebson & Prigoff, attorneys)

Jose R. Santiago, Assistant County Counsel, for respondent Passaic County Police Academy (William J. Pascrell III, Passaic County Counsel)

Philip G. George, Esq., for respondent City of Passaic Department of Public Safety (Eric M. Bernstein & Associates, attorneys)

Record Closed: April 2, 2018

Decided: April 5, 2018

BEFORE **KELLY J. KIRK, ALJ:**

STATEMENT OF THE CASE

Petitioner/appellant Christopher Reece appeals his dismissal by the Passaic County Police Academy for failure to fully participate in 80 percent of the total physical training as per the Police Training Commission (PTC) standards. Petitioner/appellant further appeals his termination by the City of Passaic Department of Public Safety for failure to complete the police training.

PROCEDURAL HISTORY

In Christopher Reece v. Passaic County Police Academy, OAL Docket No. PTC 02976-16, Reece requested a hearing and the matter was transmitted to the Office of Administrative Law (OAL) on February 23, 2016, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13, for a hearing as a contested case. In In the Matter of Christopher Reece, City of Passaic Department of Public Safety, OAL Docket No. CSV 11753-16, Reece requested a hearing and the matter was transmitted to the OAL on August 4, 2016, for a hearing as a contested case. Pursuant to N.J.A.C. 1:4A-17.1, an Order was issued on September 23, 2016, consolidating the matters and deeming the PTC to have the predominant interest.

The hearing was held on November 9, 2017, and November 16, 2017, and the record remained open for post-hearing submissions. The record closed on April 2, 2018, upon receipt of the final submission.

FACTUAL DISCUSSION

Background

Based upon a review of the testimony and the documentary evidence presented, and having had the opportunity to observe the demeanor and assess the credibility of the witnesses, I FIND the following FACTS in this case:

Dennis Schlosser retired as a captain from the Passaic County Sheriff's Department in September 2009 after twenty-five years. He has been employed full-time by the Passaic County Police Academy (PCPA) as a physical training (PT) instructor since November 2009. He has been the assistant director of the PCPA for approximately fourteen months, and prior thereto he was a senior PT instructor for four years. He had previously been a PT instructor, on and off, since approximately 1988.

Mohamed Lostan retired as a captain and has been a PT instructor for twenty-eight years.

The PCPA runs basic police, basic corrections, special one and special two, juvenile detention officer, and park ranger classes, as well as general in-service classes for prior graduates. To maintain its certification, the PCPA must conduct a minimum of two classes per year. Instructors take a forty-hour in-service class to be certified by the PTC. Schlosser took the certification class in November 2009. The class covers the PTC Physical Conditioning Training Manual. When Schlosser started at the PCPA, the PCPA was on basic class police officer (BCPO or class) number 33, and it is now on class number 50.

Christopher Reece was sent to the PCPA by the Passaic Police Department (Passaic PD). He started the BCPO at the PCPA on November 5, 2015. Reece was one of 141 trainees in class 15-46BCPO, so each trainee was also given a number for more specific identification. Reece's identification number was 95. The BCPO averages twenty-four weeks. Class 15-46BCPO concluded in March 2016, and 113 of the 141 trainees graduated.

Reece is six feet tall. At his medical examination several weeks prior to starting at the PCPA Reece weighed approximately 255 pounds. (J-11.) A trainee's physical condition is assessed three times during the class. Trainees are assigned numerically to exercise group 1 (entry), group 2 (intermediate), and group 3 (advanced). For the first assessment, a trainee's physical condition is assessed on the fourth day of the class, after three easy days of PT, to determine which exercise group the trainee should be in. On November 9, 2015, the first physical condition assessment was conducted.

On that date, Reece weighed 248 pounds and his 1.5-mile-run time was 16.36. (J-12.) The run assessment was based on the trainee's own pace, six times around the track. Reece was assigned to group 1.

On November 5, 2015, Reece signed a confirmation that he read, understood and agreed to comply with the PCPA Rules and Regulations. (J-8.) Chapter 6-1 of the PCPA Rules and Regulations addresses physical-fitness training as follows:

- a. Proper physical fitness and posture are necessary attributes for a Law Enforcement Officer. Total fitness for Law Enforcement duties include[s]: technical fitness, mental and emotional fitness, and physical fitness. If any of these attributes are lacking, the Officer's effectiveness suffers proportionately.
- b. Scheduled physical exercise as prescribed by the Police Training Commission's Physical Conditioning Program Manual will be conducted so that each "Trainee" can maintain a high level of physical fitness.
- c. Each Trainee will undergo prescribed physical fitness tests. Strengths and weaknesses shall be identified for the Trainee. Alternative training may be required as necessary. All Trainees are to participate fully in physical training sessions. Police Training Commission's rules shall be adhered to at all times.
- d. The New Jersey State Police Training Commission has set minimum standards for participation as per Directive #6-98. The minimum sessions will be forwarded to you during Orientation Day.
- e. It is the responsibility of all persons involved in the training process, to pay close attention to the personal safety of everyone involved in the training course. While attending the Passaic County Police Academy, Instructors and Trainees alike will not jeopardize the health or safety of themselves or others for the sake of the training mission.

[J-8.]

Per PTC Directive #6-98, an individual enrolled in the BCPO "must participate in a minimum of 80 percent of the physical conditioning sessions scheduled by a school with an individual participating in no less than 40 physical conditioning sessions as described in the [C]ommission's Physical Conditioning Training Program Manual." (J-54.)

The PCPA provides each trainee with the PCPA's definition of "participation" (Participation Notice). On November 5, 2015, Reece signed the Participation Notice, which states in part:

Participation in the Physical Training Program consists of sharing with, or keeping up with your assigned group. Your assigned group consists of recruits with a similar level of physical fitness as determined by your initial physical training assessments. If you refuse to share or keep up with your assigned group you are not participating in the program. If you do not participate in the program you will not be given credit for that particular training session.

If you fail to participate you fail to be part of the team. If you fail to be part of the team your time at the academy and in this program may be limited.

[J-10.]

The PT program includes cardiovascular endurance, muscular strength, and endurance and flexibility. There are exercise programs for a five-day week and for a three-day week, all of which generally include a warm-up, flexibility exercises, aerobic activities, transition cool-down, calisthenics/strength exercises, speed and agility exercises, and cool-down. One of the aerobic activities at the PCPA is running. Reece did not receive credit for the PT runs on November 18, 2015, November 19, 2015, November 20, 2015, November 23, 2015, November 24, 2015, November 25, 2015, and November 30, 2015. (J-14; J-16; J-18; J-20; J-22; J-24; J-26; J-27; J-28.) On November 30, 2015, Reece signed an acknowledgment listing the seven no-credit/non-participation dates and stating that the PTC "has set minimum standards for

participation as per Directive 6-98," and that "[t]rainees must complete 80% of scheduled performance objectives as per 13.1."¹ (J-27.)

Reece did not receive PT credit for the PT runs on December 2, 2015, December 3, 2015, December 4, 2015, December 7, 2015, December 8, 2015, December 9, 2015, December 10, 2015, December 11, 2015, and December 23, 2015. (J-30; J-32; J-34; J-36; J-38; J-40; J-42; J-44; J-46; J-47.) December 23, 2015, was the twenty-seventh day of PT. (J-46.)

On January 4, 2016, the second physical condition assessment was conducted and all group 1 trainees were moved to group 2, so group 1 was eliminated. Based on performance, some group 2 trainees were moved into group 3. On that date, Reece weighed 248 pounds and his 1.5-mile-run time was 14.38. (J-12.)

Reece did not receive PT credit for the PT run on January 15, 2016. (J-49; J-50.) January 15, 2016, was the thirty-fifth day of PT. (J-50.) The total number of PT sessions on the schedule for Reece's class was seventy-five, so Reece needed participation credit for at least sixty PT sessions in order to meet the PTC standard of 80 percent participation. (J-50.)

Schlosser recommended that Reece be dismissed from the PCPA for failure to fully participate in 80 percent of the total physical-conditioning sessions as per PTC standards. (J-50.) On February 2, 2016, Reece was notified of his dismissal from the PCPA. (J-51.) The Dismissal Notice reflects that he was being dismissed for (1) violation of the PCPA Rules and Regulations, specifically Chapter 6-1d; and (2) violation of PTC Rules—N.J.A.C. 13:1-5.1 and failure to participate in the minimum standard of PT as set by the PTC as per Directive #6-98. (J-51.)

Reece was subsequently removed from his position as a police officer by the Passaic PD because he was dismissed from the PCPA. (PS-1.)

¹ Sections 13.1.1 through 13.1.13 are the Performance Objectives in the PTC Physical Conditioning Training Manual.

Physical Training Non-Participation and Trainee Report Forms

Physical Training Non-Participation reports (Non-Participations) were completed by the instructors and Trainee Report Forms (Trainee Reports) were completed by Reece for each of the seventeen dates on which Reece did not receive PT credit. Non-Participations are not provided to the trainees. The Non-Participations list the instructors present. The Non-Participations vary in terms of running pace, running time, and time completed, and the manner in which the times are recorded varied by instructor. However, the pertinent portions of each of the seventeen Non-Participations and seventeen corresponding Trainee Reports are detailed below.

November 18, 2015

Physical Training Non-Participation (J-14):

Time separated from group: 19:20

Time walking or not at a running pace: N/A

Time lapped by group: N/A

Time observed/report injury: N/A

Instructor Comments: Recruit Reece #95 will not receive PT credit today because he failed to participate with his exercise group by separating and running at his own pace.

Trainee Report Form (J-13):

I HEREBY REPORT this recruit fell back today about 5–10 steps from group #1. End of report.²

November 19, 2015

Physical Training Non-Participation (J-16):

Time separated from group: 1:53 seconds

Time walking or not at a running pace: Trainee separated [from] group at approx. 14:45 seconds and walking @ 15 minutes into the run.

Time lapped by group: N/A

Time observed/report injury: N/A

Instructor Comments: Trainee separated from Group #1 and later observed to be walking @ 15:00 minutes by this Instructor. Trainee advised to increase pace/stride

² Instructor Lostan wrote below Reece's report: "Recruit was over 30 yards behind his group."

and to catch up to his group and participate in the run. Trainee finished 300 meters behind his group at completion of 20 minute run. *No credit for PT/ non-participation.

Trainee Report Form (J-15):

I HEREBY REPORT this recruit started walking during today's PT run due to cramping in my right thigh. End of report.³

November 20, 2015

Physical Training Non-Participation (J-18):

Time separated from group: 7:00 minutes

Time walking or not at a running pace: Trainee separated from group and walking pace established next to him by this Instructor at 7:00 minutes.

Time lapped by group: 14:45 seconds into run.

Time observed/report injury: N/A

Instructor Comments: Trainee observed to be at walking pace @ 7:00 minutes by himself at his own pace. Trainee did not participate in group run and slow shuffled, and walked during 20 minute cardio run on PCT track. *no credit for PT/ non-participation.

Trainee Report Form (J-17):

I HEREBY REPORT this recruit today fell back out of his group run but did not stop running at any time for the 20 minute run today. End of report.⁴

November 23, 2015

Physical Training Non-Participation (J-20):

Time separated from group: 10:30 seconds

Time walking or not at a running pace: 11:30 seconds trainee was at walking pace. This Instructor was able to get Reece at a running pace for 100 yards, then he stopped and was walking. Trainee cannot maintain a continuous 20 minute run pace with group.

Time lapped by group: N/A

Time observed/report injury: N/A

Instructor Comments: Trainee separated from his group approx. 10:30 and performing a slow shuffle. Trainee later at walking pace next to this Instructor; he cannot maintain a continuous running pace for 20 minutes. *no credit for PT/ non-participation.

Trainee Report Form (J-19):

I HEREBY REPORT that this recruit fell out of his run today. End of report.

³ Instructor wrote below Reece's report: "No credit for PT/Non-Participation."

⁴ Instructor wrote below Reece's report: "No credit for PT/Non-Participation."

November 24, 2015

Physical Training Non-Participation (J-22):

Time separated from group: 8:40 minute in run

Time walking or not at a running pace: 10:17 moving at slow shuffle/walking at 11:55

Time lapped by group: Group passed him at 19:51

Time observed/report injury: N/A

Instructor Comments: Recruit Reece #95 will not receive PT credit today because he failed to participate with the company run by separating and moving at his own pace/walk. He was also passed by the group at 19:51 minutes into run.

Trainee Report Form (J-21):

I HEREBY REPORT that this recruit started felling [sic] the need to throw [sic] up during the run today and did so then fell out of the run after. End of report.⁵

November 25, 2015

Physical Training Non-Participation (J-24):

Time separated from group: Unknown

Time walking or not at a running pace: N/A

Time lapped by group: He was passed by the group at 19:03

Time observed/report injury: N/A

Instructor Comments: Recruit Reece will not receive PT credit today. Recruit failed to participate in the group run by separating from the group and moving at his own pace. He was also lapped by the group once.

Trainee Report Form (J-23):

I HEREBY REPORT that this recruit fell out of the group run today to throw up and then never caught back up with my group after that. End of report.⁶

November 30, 2015

Physical Training Non-Participation (J-26):

Time separated from group: 7:30 seconds

⁵ Instructor wrote below Reece's report: "Recruit was asked if he was sick or injured. He stated No."

⁶ Instructor wrote below Reece's report: "No PT credit/Non-Participation."

Time walking or not at a running pace: Trainee was walking @ 16:10 and 16:40 seconds

Time lapped by group:

Time observed/report injury: Trainee observed on bench as sick @ 18:45 seconds⁷

Instructor Comments: Trainee separated from his group @ 7:30 seconds and began to slow shuffle, then run, then walk, back to slow shuffle and [. . .] this time. Observed walking at least two times (16:10 and 16:40). Trainee paced with walk by this instructor as well. [. . .] did not maintain a continuous running pace for 20 minutes. *no credit for PT/ non-participation.

Trainee Report Form (J-25):

I HEREBY REPORT that this recruit stopped to spit at about 17 minutes into the group run and then was instructed by Sergeant Forst from Newark Police Department to stop and head over to the bench area. So I did so at this time. End of report.

December 2, 2015

Physical Training Non-Participation (J-30):

Time separated from group: 8:57 into run

Time walking or not at a running pace: N/A

Time lapped by group: N/A

Time observed/report injury: N/A

Instructor Comments: Recruit Reece will not receive PT credit for today. Recruit separated from his exercise group and moved at his own pace.

Trainee Report Form (J-29):

I HEREBY REPORT that this recruit got short of breath after the 4th lap of his groups run today and then fell back from his group afterwards. End of report.

December 3, 2015

Physical Training Non-Participation (J-32):

Time separated from group: 4:24 seconds

Time walking or not at a running pace: slow shuffle @ 5:15, 9:00 minutes. Observed walking @ 18:30 seconds.

Time lapped by group: N/A

Time observed/report injury: Stopped 5:45 seconds and reported pain in his left knee to Inst. Ricciardiello.

Instructor Comments: Trainee Reece separated from Group #1 @ 4:24 seconds and began to slow shuffle by himself at a slow pace. He was instructed to increase his

⁷ First aid was noted to be refused and not given.

pace/ stride and participate in the run with his group. Reece was observed walking @ 18:30 by this writer with a walking pace established beside him. Attempts to increase his pace and stride were made by this Instructor and Inst. Berger. Trainee Reece was 1/4 mile behind his group when they finished the 20 minute run. *no credit for PT/ non-participation.

Trainee Report Form (J-31):

I HEREBY REPORT that this recruit fell out of his groups run today due to cramping in the left thigh. End of report.

December 4, 2015

Physical Training Non-Participation (J-34):

Time separated from group: N/A

Time walking or not at a running pace: N/A

Time lapped by group: N/A

Time observed/report injury: N/A⁸

Instructor Comments: Recruit Reece will not receive PT credit for today. Recruit separated from his exercise group and moved at his own pace. He finished 2:50 minutes behind his group.

Trainee Report Form (J-33):

I HEREBY REPORT that this recruit fell out of his groups run today. End of report.

December 7, 2015

Physical Training Non-Participation (J-36):

Time separated from group: 3:00 minutes

Time walking or not at a running pace: 3:00 minutes/ slow shuffle at 4:30 seconds

Time lapped by group: 18:58 seconds trainee was lapped by group #1.

Time observed/report injury: N/A.

Instructor Comments: Trainee Reece separated from Group #1 @ 3:00 minutes and began to slow shuffle at his own pace away from group 1. Observed to be at a slow shuffle, and walking when Instructors were not looking, @ 9:30 seconds. Trainee finished one full lap behind group #1 and finished with cardio @ 23:45. Trainee did not participate in the run. *no credit for PT/ non-participation.

Trainee Report Form (J-35):

I HEREBY REPORT that this recruit fell behind of his groups run today. End of report.⁹

⁸ First aid was noted to be refused.

⁹ Instructor wrote below Reece's report: "No PT credit/Non-Participation."

December 8, 2015

Physical Training Non-Participation (J-38):

Time separated from group: 4:10 minute into the run

Time walking or not at a running pace: Observed moving at a slow shuffle at 8:30 by Capt. Schlosser

Time lapped by group: N/A

Time observed/report injury: N/A

Instructor Comments: Recruit Reece will not receive PT credit for today. Recruit separated from his exercise group and moved at his own pace for the rest of the run. He finished 3:00 minutes behind his group.

Trainee Report Form (J-37):

I HEREBY REPORT that this recruit finished the run today approximately 3 minutes after my group. End of report.

December 9, 2015

Physical Training Non-Participation (J-40):

Time separated from group: 4:10 minutes

Time walking or not at a running pace: n/a

Time lapped by group: 19:49 minutes

Time observed/report injury: n/a

Instructor Comments: Recruit failed to keep up with his running group, recruit stopped running at 4:10 minutes and 4:20 minutes. Recruit ran at his own pace and was lapped by his group at 19:49 minutes, and finished the run 3 minutes and 13 seconds behind the group. Recruit will not get credit for today's [sic] P.T. because recruit failed to keep up with the group.

Trainee Report Form (J-39):

I HEREBY REPORT that this recruit fell behind his group during today's run and finished the run 3 minutes after his group at 23 minutes. End of report.

December 10, 2015

Physical Training Non-Participation (J-42):

Time separated from group: 7 min. 40 sec.

Time walking or not at a running pace: Recruit Reece was observed separated from his running group in 7 min. 40 sec.

Time lapped by group: Recruit Reece was lapped by his running group in 18 min. 40 sec.

Time observed/report injury: N/A

Instructor Comments: Recruit Reece was observed to be separated from his running group in 7 minutes 40 seconds. At 16 minute 40 seconds he was at a slow shuffle running at his own pace[.] Reece was lapped by his running group at 18 minutes 40 seconds and completed the 20 minute run in 23 [minutes] 30 seconds. *No credit for PT/non-participation.

Trainee Report Form (J-41):

I HEREBY REPORT that this recruit fell out of group one's run and did not catch up. End of report.

December 11, 2015

Physical Training Non-Participation (J-44):

Time separated from group: 2:00 minutes into run

Time walking or not at a running pace: Observed moving at a slow shuffle at 7:50 and walking at 8:00 into the run

Time lapped by group: Passed by the group at 18:33

Time observed/report injury: N/A

Instructor Comments: Recruit Reece will not receive PT credit for today. Recruit separated from his exercise group and moved at his own pace for the remainder of the run. He was seen moving at a slow shuffle and walking at least once. His exercise group also passed him during the run.

Trainee Report Form (J-43):

I HEREBY REPORT that this recruit fell out of his groups run today and caught up twice but did not finish with the group at the end of the run. End of report.¹⁰

December 23, 2015

Physical Training Non-Participation (J-46):

Time separated from group: 12:30 seconds

Time walking or not at a running pace: Trainee separated from his group @ 12:30. Run form was corrected and he rejoined his group. Later observed walking for a few steps next to an Inst. Ricciardiello in lower lot as class was circling around to go around the Fire Academy perimeter.

¹⁰ Instructor wrote below Reece's report: "No PT credit/Non-Participation."

Time lapped by group: N/A

Time observed/report injury: N/A

Instructor Comments: Class ran as Company from Police Academy to Fire Academy via Kattak Pkwy. Once at the Fire Acad. Class ran with instructors around perimeter and front parking lot for 22 minutes. Trainee Reece separated from group @ 12:30 sec. and was approx. 10–15 yards behind. He was able to increase pace and rejoin group for short period of time. At 19:20 he was observed separated from the group by 50 yards and walking for a few steps by Inst. Ricciardiello in the lower parking lot by the row of trees. Trainee started to run again after seeing this Instructor coming his way. Trainee remained in the rear of the formation and was unable to catch up to group. Inst. Lostan, leading run, circled class around light poles in front and trainee was able to rejoin the group. Repeated attempts were made by this instructor and Inst. Alamy for Reece to not fall behind and he cannot remain with the group unless they circle around and "pick him up." *no credit for PT/ walking during run/ non-participation. 27th PT day for this class.

Trainee Report Form (J-45):

I HEREBY REPORT that this recruit was at the back of the group run today, and took a few steps towards the back of the Fire Academy. End of report.¹¹

January 15, 2016

Physical Training Non-Participation (J-49):

Time separated from group: 5:00 minutes

Time walking or not at a running pace: slow shuffle @ 5:00–5:40 minutes by himself at slow shuffle pace.

Time lapped by group: 20 minutes

Time observed/report injury: N/A

Instructor Comments: Trainee Reece separated from class in 5:00 minutes. Class was performing a Company run on the PCT running track (35th PT day since class started). At 6:25 seconds Trainee was 30 yards behind company and going slower. At 12:40 Trainee still at a slow shuffle himself approx. 100 yards behind the rest of the class and not at run pace. This writer, in work boots, ran past Reece and attempted to train him by increasing his pace/stride and participate in the company run. Trainee later lapped by the group @ 20 minutes. Company run completed in 29 minutes (3.2 miles). Trainee was behind the rest of the class by over 1 lap. Class had hydrated and formed up for calisthenics on field and Trainee Reece was on the other side of the track trying to make up a lap; still at slow pace by himself. Reece finished @ 32 minutes and he was 3 minutes behind the rest of the class as they had already started performing pushups. Reece finally ran with an instructor at the end of the run, but the rest of the class was already exercising and he coasted during the run up to this point and slow

¹¹ Instructor wrote below Reece's report: "(Details/Why fell out?) Separated @ 12:30/Walking for few steps @ 19:20 seconds. Class ran 22 minutes. *No credit for PT/Non-Participation."

shuffled at his own pace by himself and he refuses to train with his class. *no credit for PT/non-participation.

Trainee Report Form (J-48):

I HEREBY REPORT that this recruit today got lapped during the group run but did not stop running at any time and finished the run also making up the lap that was owed by this recruit. End of report.¹²

Testimony

Captain Dennis Schlosser

Schlosser recommended Reece's dismissal from the PCPA based upon Reece's failure to fully participate in 80 percent of the total PT sessions. Trainees are given notice of the trainee requirements with the enrollment packet, before they get to the PCPA. The rules and regulations and the general program are covered on the first day of orientation at the PCPA. The class generally reads the PCPA Rules and Regulations word for word and then the trainees are required to sign the Confirmation of Rules and Regulations.

Schlosser described the physical-conditioning exercises' timing and procedure. Trainees must continuously run for twenty minutes, usually three days per week. The total time of an exercise session may not exceed seventy minutes. The minimum run is twenty minutes, but sometimes they run twenty-two to twenty-three minutes. Instructors train with the classes and therefore actively run with the groups. Schlosser actively runs with group 1 because he is generally unable to keep pace with the faster groups. The pace is decided in advance by the instructor depending upon which instructors are present. Instructors utilize a stopwatch. Trainees are not permitted to utilize fitness devices. At the end of a run, the instructor will announce the length of the run and time that the group completed the run. The pace is typically around 2:30 (two minutes, thirty seconds) for one lap around the track. The PCPA has two GoPro video cameras to video the runs.

¹² Instructor wrote below Reece's report: "No credit for PT/Non-Participation."

Examples of non-participation are walking, stopping, or not finishing a run. The run must be a continuous twenty-minute run. One instructor generally leads the run, and, depending upon how many instructors are present, an instructor will run in the middle and/or the back. The instructor's job is to keep the group together. If a trainee separates to walk or stop, the trainee will not get credit for PT that day. The group generally completed the runs in twenty minutes, but at times Reece took longer than twenty minutes. There were various reasons that Reece did not complete the runs in twenty minutes, including stopping and walking.

A general PT report is prepared daily by an instructor. The trainees are required to complete a Trainee Report if they fall out of a run, are injured, or otherwise do not participate. Instructors want details on Trainee Reports to determine the problem and help the trainee improve. Trainees are expected to improve in PT. After seven Non-Participations, they sit the trainee down and tell the trainee to get with the program. Non-Participations are written by the PT instructors at the end of PT for trainees who receive a Non-Participation.

The PTC Rules are adhered to at all times. The PTC did not define a run step-wise. If the instructors set a pace, then the trainees must keep up with that pace. It is not possible to train an individual who is behind the group on the other side of the track or by himself or herself. That is not participating. Trainees are verbally notified of their assessment numbers/scores, and know their scores. The information is not provided to the trainees in writing. The PCPA has been implementing the program this way for at least the eight years that Schlosser has been an instructor there. The PTC makes unannounced visits and verifies compliance, and the PCPA has not had any complaints from the PTC.

Captain Mohamed Lostan

The PTC requires full participation. If a trainee is not with the group, the trainee is not participating. Reece was running by himself. If Reece were not running at the pace set by the instructor or separated from the group it would result in a Non-Participation. There is a difference between a shuffle and a jog. A slow shuffle by

definition is not running. Based upon his twenty-eight years of experience as an instructor, Lostan knows the difference between a jog and a shuffle. A shuffle is a leisurely pace.

Lostan sometimes ran with group 1. One instructor cannot keep track of every trainee during the runs. Before and after PT the trainees are asked if they are sick or injured, and they are instructed that if they are sick or injured to report it to an instructor. Videos are taken daily, in order to keep records on times, but they are not all saved due to server space. The PCPA is not required to video the runs, but does so to keep track of times. The videos are reviewed by the instructors after the runs. One GoPro is at the front, primarily used for audio.

The PTC recommends a 10 percent increase in running distance per week. The pace is also increased in order for trainees to progress. There is no limit or maximum on run time, but the total exercise session cannot exceed seventy minutes. The PCPA is allowed to schedule a thirty-minute run. The PTC Aerobic Activities Prescription Guidelines are sample guidelines. No electronic equipment is allowed at the PCPA. The trainees start off going to PT five days per week. PT is later reduced to three days per week to allow for defensive tactics, after the trainees are more physically fit.

Reece was dismissed before the end of the class because he already had more than fifteen Non-Participations and it was not possible for him to meet the 80 percent requirement.

Christopher Reece

To prepare for the PCPA, Reece began running 1.5 miles a day the day after he received the paperwork packet from the PCPA. Reece utilized several fitness technology "apps" to record his runs, including Map My Run, Nike+ Run Club, and Fitbit. According to his fitness-apps data, in October Reece was running 1.5 miles three days per week in approximately 14:20, thereby averaging a mile in under ten minutes.

For the first physical condition assessment run, trainees were broken into three groups. He was in a mixed group, with some trainees who were slow and some who were fast, because the PCPA did not yet know the trainees' abilities. Reece tried to keep up with the fast runners for laps one, two, and three, at a faster pace than his normal pace, so by the end of lap three he was winded.

Captain Schlosser and Captain Lostan told the trainees that if a trainee reaches out his hand and cannot touch the back of the trainee running in front of him, provided that the trainee running in front is still in/with the group, then the trainee is deemed to have fallen out. Reece estimated that he did not participate in approximately four PT runs. If a trainee falls out of a run, the instructors require the trainee to complete a Trainee Report. The trainees submit the Trainee Reports to the squad leader and the reports are handed up the chain of command. He never saw the Trainee Reports again, unless he was later advised that additional information was required. An example of such additional information would be if an instructor wanted the trainee to include that the instructor had observed the trainee being lapped by the group. Reece tore up and rewrote numerous Trainee Reports.

Reece denied that he stopped running on November 18, 2015. Reece denied that he stopped running on November 20, 2015, and testified that he was "absolutely not" walking and was not slow shuffling; rather, he was jogging. He denied that he stopped running on November 23, 2015, but he could not reach out and touch the trainee in front of him. He stopped running to throw up on November 24, 2015, but then resumed running. He caught up with the group, but then fell back again. He stopped running to throw up on November 25, 2015. On November 30, 2015, he did not participate. On December 2, 2015, he stopped running and fell back from the group and then resumed running, but he was not with the group. On December 3, 2015, he stopped running one or two times to stretch on the fence because of cramping and then resumed running. He ran continuously on December 4, 2015, and December 7, 2015, but could not touch the trainee in front of him. He did not stop running on December 8, 2015, or December 9, 2015. He was told what to write on the December 8, 2015, and December 9, 2015, reports because he was not permitted to use a technology device and would not otherwise have known what time he finished or how far behind the group

he was. The reports are completed in the lecture hall, and on any given day there were fifteen to twenty trainees completing reports. Reece did not stop running on December 10, 2015, or December 11, 2015. He denied walking, because there would have been no way for him to have caught up if he had been walking. Reece did not stop running on January 15, 2016. Reece denied that he would have been three minutes behind the group, because most of the time he fell out, he was only five to fifty yards behind, and three minutes behind is a large amount of time.

Outside of the PCPA, Reece tried to address the running problem by signing up for fourteen sessions with a private trainer, on Thursday evenings and Saturday mornings, beginning on November 28, 2015. He did not run very often outside of the PCPA. The PCPA had instructed the trainees to run on Saturdays, but to rest on Sunday. One or two days per week he ran outside the PCPA at Garret Mountain, so he was consistently running six days per week. The PCPA run was flat, but Garret Mountain was up and down. While at the PCPA, Reece asked Captain Lostan for help improving his running performance. Captain Lostan told Reece that if he could run a ten-minute mile there would be no reason why he would fall out and not stay with the group. Reece told Captain Lostan that he can run a ten-minute mile outside of the PCPA, but at the PCPA with the group the pace seemed faster.

Before the PCPA, Reece did not run, ate what he wanted, and only did light gym work. After the PCPA, his lifestyle dramatically changed. He ate sardines and protein shakes at the PCPA, and he now weighs 225 pounds. He presently runs two miles per day, five days per week, at Tryon Park. He has been running approximately a 9:20 mile.

Reece was not provided with a copy of the Trainee Counseling Form/Written Notification for his records. He thinks at the end of the run the instructor shouted out the times to the individual trainees. Reece did not receive copies of the Physical Training/D.T.s or the January 15, 2016, Instructors Report memo. Reece was never provided with a copy of his Individual Physical Fitness Assessment Profile.

Captain Schlosser called him out of the study hall for the February 2, 2016, meeting. There were three officers there from the Passaic PD, and Reece was advised

that he had failed. He was shocked and did not understand how he had failed when others behind him had not. He was never absent, was never cited for any rule violation, never received any demerits, and had approximately an 80 average when he was dismissed.

Additional Findings of Fact

A credibility determination requires an overall evaluation of the testimony in light of its rationality or internal consistency and the manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Testimony to be believed must not only proceed from the mouth of a credible witness, but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546, 555 (1954). It must be such as the common experience and observation can approve as probable in the circumstances. Gallo v. Gallo, 66 N.J. Super. 1, 5 (App. Div. 1961). "The interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony." State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

The Non-Participations and corresponding Trainee Reports establish that Reece repeatedly fell behind in the group runs. Twelve of the seventeen Non-Participations have entries for "Time walking or not at a running pace," and the instructor specifically indicated that Reece was at some point during the run observed to be either walking or slow-shuffling: November 19, 2015 ("walking"); November 20, 2015 ("walking pace" and "slow shuffled"); November 23, 2015 ("walking pace" and "slow shuffle"); November 24, 2015 ("slow shuffle/walking" and "moving at his own pace/walk"); November 30, 2015 ("walking," "slow shuffle, then run, then walk, back to slow shuffle," and "[o]bserved walking at least two times"); December 3, 2015 ("slow shuffle" and "walking"); December 7, 2015 ("slow shuffle" and "walking"); December 8, 2015 ("slow shuffle"); December 10, 2015 ("slow shuffle"); December 11, 2015 ("slow shuffle" and "walking"); December 23, 2015 ("walking"); and January 15, 2015 ("slow shuffle" and "not at run pace"). Although Reece denied that he stopped running on November 20, 2015, the Non-Participation reflects that Schlosser established a walking pace next to him at 7:00

minutes. Additionally, although the December 9, 2015, Non-Participation reflects "n/a" at "Time walking or not at a running pace," the comments reflect that Reece "stopped running" twice, and that he was lapped by his group and finished more than three minutes behind. Accordingly, there were thirteen days on which Reece was not continuously running.

Reece was advised on November 30, 2015, that he had received seven Non-Participations, but thereafter he received additional Non-Participations for the same physical training. Given that Reece signed up for fourteen sessions with a private trainer to address his running problem beginning on November 28, 2015, Reece was already aware that his running was an issue. Additionally, Reece testified that he had a conversation with Captain Lostan about improving his running, and told Captain Lostan that he could run outside the PCPA, but at the PCPA the pace seemed faster.

Reece's testimony that his technology "apps" indicated that he was running approximately a 9:20 mile was credible, but even assuming that the apps were accurate in recording and reporting Reece's run times, this does not establish that Reece was running at that pace during PT, nor does it establish that Reece never stopped running or that he never slow-shuffled. There are any number of reasons that the PT runs may have resulted in stopping, walking or slow-shuffling or in physical effects, including, but not limited to, differences in routes, warm-ups, hydration, or other training.

It is noted that four other Non-Participations reflect "N/A" for "Time walking or not at a running pace," and the instructor comments reflect only that Reece was not with the group and was moving at his own pace: November 18, 2015 ("separating and running at his own pace"); November 25, 2015 ("separating from the group and moving at his own pace" and "lapped by the group once"); December 2, 2015 ("separated from his exercise group and moved at his own pace"); and December 4, 2015 ("separated from his exercise group and moved at his own pace" and "finished 2:50 minutes behind his group"). While these four Non-Participations may not specifically state that he stopped running, they do reflect that Reece was not with his group.

Having had an opportunity to consider the evidence and to observe the witnesses and make credibility determinations based on the witnesses' testimony, I **FIND** the following additional **FACTS** in this case:

Reece signed up for fourteen sessions with a private trainer twice per week, beginning on November 28, 2015. In seventeen of thirty-five group PT runs, Reece failed to maintain pace with his group and fell out from his group. On at least seven of those seventeen group runs, Reece was far enough behind that he was lapped by his group. On thirteen of the thirty-five group runs, Reece did not maintain a continuous run because he stopped, walked, and/or slow shuffled. Stopping, walking, and slow-shuffling are not running and will result in a Non-Participation. If a trainee is not within arm's length of the group, the trainee is not participating.

LEGAL ANALYSIS AND CONCLUSIONS

Dismissal by PCPA

N.J.S.A. 52:17B-66 states:

The Legislature of New Jersey hereby finds and declares that a serious need for improvement in the administration of local and county law enforcement exists in order to better protect the health, safety and welfare of its citizens; that police work, a basic adjunct of law enforcement administration, is professional in nature, and requires proper educational and clinical training in a State whose population is increasing in relation to its physical area, and in a society where greater reliance on better law enforcement through higher standards of efficiency is of paramount need; that the present need for improvement can be substantially met by the creation of a compulsory educational and training program for persons who seek to become permanent law enforcement officers wherein such persons will be required, while serving in a probationary capacity prior to permanent appointment, to receive efficient training in this profession provided at facilities selected, approved and inspected by a commission created for such purpose; and that by qualifying and becoming proficient in the field of law enforcement such persons shall individually and

collectively better insure the health, safety and welfare of the citizens of this State in their respective communities.

N.J.S.A. 52:17B-70 established the PTC in the Division of Criminal Justice in the Department of Law and Public Safety. The PTC is vested with multiple powers, responsibilities and duties, including: (a) to prescribe standards for the approval and continuation of approval of schools at which police training courses are conducted, including but not limited to presently existing regional, county, municipal and police chief association police training schools; (b) to approve and issue certificates of approval to such schools, to inspect such schools from time to time, and to revoke any approval or certificate issued to such schools; (c) to prescribe the curriculum, the minimum courses of study, attendance requirements, equipment and facilities, and standards of operation for such schools; (d) to prescribe minimum qualifications for instructors at such schools and to certify, as qualified, instructors for approved police training schools and to issue appropriate certificates to such instructors; and (e) to certify police officers, corrections officers, juvenile corrections officers and juvenile detention officers who have satisfactorily completed training programs and to issue appropriate certificates upon completion. N.J.S.A. 52:17B-71.

Generally, all instructors participating in a course authorized by the PTC must be certified before they are permitted to teach. N.J.A.C. 13:1-4.1. The Passaic County Police Academy and its instructors are certified by the PTC in accordance with N.J.A.C. 13:1-3.1 to -3.7 and N.J.A.C. 13:1-4.1 to -4.6. A curriculum issued by the PTC is the required curriculum at a PTC-approved school and constitutes the minimum requirements for trainee certification. N.J.A.C. 13:1-6.1. The PTC curricula are incorporated into the act by reference. Ibid. An approved school must conduct basic courses and other courses required by the PTC. Ibid. A school's certification may be suspended or revoked by the PTC for failure to comply with PTC requirements. N.J.A.C. 13:1-3.7(a)(1).

A trainee is eligible for certification when the school director affirms that: (1) the trainee has achieved the minimum requirements set forth in the basic course and has demonstrated an acceptable degree of proficiency in that course's performance objectives; (2) the trainee has participated in no less than 90 percent of the total instructional time assigned to those performance objectives designated by the PTC; and (3) the trainee has

successfully completed the training required by the PTC to be conducted by the employing law enforcement agency. N.J.A.C. 13:1-5.1(a).

Per Chapter 6 of the PCPA's Rules and Regulations, "[a]ll Trainees are to participate fully in physical training sessions," and the PTC "has set minimum standards for participation as per Directive #6-98." Reece confirmed that he understood the Rules and Regulations and agreed to comply with them. Additionally, Reece signed the PCPA's Participation Notice, which required that Reece keep up with his assigned group and advised that if Reece refused to keep up with his assigned group he would not be participating in the program and that such non-participation would result in no credit for the training session.

Further, the PTC's Physical Conditioning Exercise Program in the PTC's Physical Conditioning Training Manual states, in pertinent part, as follows:

The third component of the program is the physical conditioning exercise program (see Section V, The [] Administration and Implementation of the Physical Conditioning Exercise Program). The exercise program serves two purposes. It will improve one's ability to perform job-related physical tasks and instill the concept of maintaining lifetime fitness. Each exercise session shall emphasize these dual objectives. The following are requirements of the exercise program that must be met:

1. Each exercise session, including the warm-up and cool-down phase, shall not exceed 70 minutes in length. (An additional 10 minutes, however, will be allowed for more highly fit trainees undergoing exercise. Also, additional time is permitted for trainees who require rest during the performance of speed and agility exercises. These variations are delineated in the exercise prescription [guidelines] for each activity.) The time needed to change clothes and to move to the appropriate training facilities is not to be included in the 70 minutes of exercise time.

...

2. A minimum of 40 physical conditioning sessions shall be scheduled in a five-day program, and 20 physical conditioning sessions shall be scheduled in a three-day

program. In addition, a trainee must fully participate in eighty-percent of the scheduled physical training sessions, and meet the standard which produces the higher number of sessions based upon the course schedule. Failure to fully participate in eighty-percent of the total physical conditioning sessions shall be grounds for dismissal from the police academy.

7. Full participation shall be defined as participating continuously and without stopping in a twenty-minute run. Recruits shall demonstrate to staff their ability to engage in aerobic training running continuously for this period of time. Full participation in calisthenics and strength exercises shall be approved by the evaluation of physical training staff at each academy, on a recruit-by-recruit basis.

Reece argues that he was still maintaining a "running" pace, albeit slower than his group, and that his own pace was sufficient to satisfy the PTC requirement that "[f]ull participation shall be defined as participating continuously and without stopping in a twenty-minute run." The PTC's definition of full participation is vague, in that it does not also define "participating continuously." However, as set forth in the regulations, the curriculum issued by the PTC constitutes the minimum requirements for trainee certification. Therefore, I accept the PCPA's definition of participation in the Participation Notice and the testimony of the instructors and Reece that the PCPA's requirement is that Reece be no further than an arm's length from the trainee immediately in front of him, and that he be "keeping up with [his] assigned group." There were initially three groups. Reece was assigned to group 1, but was unable to keep up with the entry-level group.

On thirteen of the group runs Reece stopped, walked, and/or slow shuffled. There were four instances in which the Non-Participations do not clearly reflect that Reece had stopped, or that he was walking or slow-shuffling at any point. Reece argues that he was still maintaining a continuous "running" pace in those instances. However, even if Reece had been "running," he nevertheless fell out of those four runs, and failed to meet the PCPA's participation requirement. Thus, Reece failed to participate in seventeen PT exercises.

In sum, I **CONCLUDE** that the PCPA has established that Reece failed to participate in at least 80 percent of the PT exercises as required by the PTC, and I further **CONCLUDE** that the PCPA thereby established good cause for Reece's dismissal.

Removal by City of Passaic Department of Public Safety

Prior to the acceptance of a trainee into a basic course, the chief police officer or chief executive officer of the employing law enforcement agency must certify by completing a trainee record card issued by the PTC that, with respect to police officers, the appointing authority has complied with the provisions of N.J.S.A. 52:17B-68.1 and -69 and N.J.S.A. 18A:6-4.4, including, but not limited to: (i) the individual has received a probationary appointment; and (ii) the individual has been granted a leave of absence with pay during the period of the police training course. N.J.A.C. 13:1-8.1(a).

The position of the City of Passaic Department of Public Safety is that Reece did not complete the BCPO at the PCPA, and by statute a police officer must complete the academy, so upon receipt of notice that Reece was dismissed from the PCPA, he was terminated from his probationary appointment. (PS-1.) Reece was not terminated for any other reason.

N.J.S.A. 52:17B-68(a) states:

Every municipality and county shall authorize attendance at an approved school by persons holding a probationary appointment as a police officer, and every municipality and county shall require that no person shall hereafter be given or accept a permanent appointment as a police officer unless such person has successfully completed a police training course at an approved school; provided, however, that the commission may, in its discretion, except from the requirements of this section any person who demonstrates to the commission's satisfaction that he has successfully completed a police training course conducted by any Federal, State or other public or private agency, the requirements of which are substantially equivalent to the requirements of this act.

As established by N.J.S.A. 52:17B-68(a), Reece may not be given or accept a permanent appointment as a police officer unless he successfully completed a police training course at an approved school. Reece was dismissed from the BCPO at the PCPA and therefore failed to successfully complete the approved police training course. Accordingly, I **CONCLUDE** that Reece's removal by the City of Passaic Department of Public Safety for failure to complete the police academy was mandated by statute and therefore appropriate.

ORDER

I **ORDER** that Reece's dismissal from the PCPA, effective February 2, 2016, is **AFFIRMED**, and Reece's appeal is **DISMISSED** with prejudice. I further **ORDER** that Reece's removal by the City of Passaic Department of Public Safety, effective February 22, 2016, is **AFFIRMED**, and Reece's appeal is **DISMISSED** with prejudice.

I hereby **FILE** this Initial Decision with the **POLICE TRAINING COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **POLICE TRAINING COMMISSION**, which by law is authorized to make the final decision on all issues within the scope of its predominant interest. If the **POLICE TRAINING COMMISSION** does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision on all of the issues within the scope of predominant interest shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Pursuant to N.J.A.C. 1:1-17.8, upon rendering its final decision the **POLICE TRAINING COMMISSION** shall forward the record, including this recommended decision and its final decision, to the **CIVIL SERVICE COMMISSION**, which may subsequently render a final decision on any remaining issues and consider any specific remedies which may be within its statutory grant of authority.

Upon transmitting the record, the **POLICE TRAINING COMMISSION** shall, pursuant to N.J.A.C. 17:27.8(c), request an extension to permit the rendering of a final decision by the **CIVIL SERVICE COMMISSION** within forty-five days of the predominant-agency decision. If the **CIVIL SERVICE COMMISSION** does not render a final decision within the extended time, this recommended decision on the remaining issues and remedies shall become the final decision.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DEPUTY ATTORNEY GENERAL, POLICE TRAINING COMMISSION, Richard J. Hughes Justice Complex, PO Box 085, Trenton, New Jersey 08625-0085**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

4/5/18
DATE

Kelly J. Kirk
KELLY J. KIRK, ALJ

Date Received at
POLICE TRAINING COMMISSION:

Am Janna Benitez

Date Mailed to Parties: APR 9 2018

Director and
CHIEF ADMINISTRATIVE LAW JUDGE

mm

APPENDIX

WITNESSES

For Petitioner/Appellant:

Christopher Reece

Mohamed Lostan

For Passaic County Police Academy:

Dennis Schlosser

For City of Passaic Department of Public Safety:

None

EXHIBITS IN EVIDENCE

Joint

- J-1 (Not in Evidence)
- J-2 (Not in Evidence)
- J-3 (Not in Evidence)
- J-4 (Not in Evidence)
- J-5 (Not in Evidence)
- J-6 (Not in Evidence)
- J-7 (Not in Evidence)
- J-8 PCPA Rules & Regulations
- J-8A Rules & Regulations Confirmation, dated November 5, 2015
- J-9 (Not in Evidence)
- J-10 Participation Notice
- J-11 Trainee Exercise Report Form
- J-12 Individual Physical Fitness Assessment Profile
- J-13 Trainee Report Form, dated November 18, 2015

- J-14 Physical Training Non-Participation, dated November 18, 2015
- J-15 Trainee Report Form, dated November 19, 2015
- J-16 Physical Training Non-Participation, dated November 19, 2015
- J-17 Trainee Report Form, dated November 20, 2015
- J-18 Physical Training Non-Participation, dated November 20, 2015
- J-19 Trainee Report Form, dated November 23, 2015
- J-20 Physical Training Non-Participation, dated November 23, 2015
- J-21 Trainee Report Form, dated November 24, 2015
- J-22 Physical Training Non-Participation, dated November 24, 2015
- J-23 Trainee Report Form, dated November 25, 2015
- J-24 Physical Training Non-Participation, dated November 25, 2015
- J-25 Trainee Report Form, dated November 30, 2015
- J-26 Physical Training Non-Participation, dated November 30, 2015
- J-27 Trainee Counseling Form/Written Notification
- J-28 Physical Training/D.T., through November 30, 2015
- J-29 Trainee Report Form, dated December 2, 2015
- J-30 Physical Training Non-Participation, dated December 2, 2015
- J-31 Trainee Report Form, dated December 3, 2015
- J-32 Physical Training Non-Participation, dated December 3, 2015
- J-33 Trainee Report Form, dated December 4, 2015
- J-34 Physical Training Non-Participation, dated December 4, 2015
- J-35 Trainee Report Form, dated December 7, 2015
- J-36 Physical Training Non-Participation, dated December 7, 2015
- J-37 Trainee Report Form, dated December 8, 2015
- J-38 Physical Training Non-Participation, dated December 8, 2015
- J-39 Trainee Report Form, dated December 9, 2015
- J-40 Physical Training Non-Participation, dated December 9, 2015
- J-41 Trainee Report Form, dated December 10, 2015
- J-42 Physical Training Non-Participation, dated December 10, 2015
- J-43 Trainee Report Form, dated December 11, 2015
- J-44 Physical Training Non-Participation, dated December 11, 2015
- J-45 Trainee Report Form, dated December 23, 2015
- J-46 Physical Training Non-Participation, dated December 23, 2015

- J-47 Physical Training/D.T., through December 23, 2015
- J-48 Trainee Report Form, dated January 15, 2016
- J-49 Physical Training Non-Participation, dated January 15, 2016
- J-50 Instructor's Report, dated January 15, 2016
- J-51 Dismissal, dated February 2, 2016
- J-52 (Not in evidence)
- J-53 PTC Physical Conditioning Training Manual
- J-54 PTC Directive 6-98

For Petitioner/Appellant:

- A-1 Physical Training Video
- A-2 Physical Training Video
- A-3 Physical Training Video
- A-4 Physical Training Video
- A-5 (Not in Evidence)
- A-6 (Not in Evidence)

For Passaic County Police Academy:

None

For City of Passaic Department of Public Safety:

- PS-1 Stipulation of Facts